

request for a replacement permit will not be considered a new application. An appropriate fee, consistent with paragraph (k) of this section, may be charged for issuance of the replacement permit.

(h) *Transfer.* A permit issued under this section, except in the case of a purse seine permit as allowed under paragraph (m) of this section, is not transferable or assignable to another vessel or owner; it is valid only for the vessel and owner to which it is issued.

(i) *Display.* A permit issued under this section must be carried on board the vessel at all times. The permit must be displayed for inspection upon request of any authorized officer or any employee of NMFS designated by the Regional Director for such purpose. Upon sale of any large medium or giant Atlantic bluefin tuna, the vessel permit must be presented for inspection to the permitted dealer completing the landing card.

(j) *Sanctions.* The Administrator may suspend, revoke, modify, or deny a permit issued or sought under this section. Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(k) *Fees.* NMFS may charge a fee to recover the administrative expenses of permit issuance. The amount of the fee shall be determined, at least biannually, in accordance with the procedures of the NOAA Finance Handbook, available from the Director, for determining administrative costs of each special product or service. The fee may not exceed such costs and is specified with application or renewal instructions. The required fee must accompany each application or renewal. Failure to pay the fee will preclude issuance of the permit.

(l) *Change in application information.* Within 15 days after any change in the information contained in an application submitted under this section, the vessel owner must report the change by phone (1-888-USA-TUNA) or internet (<http://www.usatuna.com>). In such case, a new permit will be issued to incorporate the new information. For certain informational changes, NMFS may require supporting documentation before a new permit will be issued or may require payment of an additional

fee. Permittees will be notified of such requirements, if applicable, when reporting changes. In case of failure to report changes, the permit shall be void as of the sixteenth day after a change in the permit information should have been reported as found in an action under 15 CFR part 904.

(m) *Closed categories.* The Regional Director will issue permits to catch and retain Atlantic bluefin tuna under §285.22(c) only to current owners of those purse seine vessels, or their replacements, that were granted allocations under this subpart and landed Atlantic bluefin tuna in the fishery for Atlantic bluefin tuna during the period 1980 through 1982. The Regional Director will not issue a permit to take Atlantic bluefin tuna under this subpart to the owner of any vessel that was replaced or consolidated with another vessel and retired from the purse seine fishery during the period 1980 through 1982, unless that vessel is replacing another vessel being retired from the fishery.

[50 FR 43400, Oct. 25, 1985, as amended at 58 FR 45290, Aug. 27, 1993; 60 FR 38512, July 27, 1995; 62 FR 332, Jan. 3, 1997; 62 FR 27519, May 20, 1997; 62 FR 30744, June 5, 1997; 62 FR 38487, July 18, 1997]

§285.22 Quotas.

The total annual (January 1-December 31) amount of Atlantic bluefin tuna that may be caught, retained, possessed or landed by persons and vessels subject to U.S. jurisdiction in the regulatory area is subdivided as follows:

(a) *General.* (1) The total annual amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed or landed in the regulatory area by vessels permitted in the General category under §285.21(b) is 633 mt, of which 374 mt are available in the period beginning June 1 and ending August 31; 187 mt are available in the period beginning September 1 and ending September 30; and 72 mt are available in the period beginning October 1.

(2) On the basis of the statistics referenced at §285.20(b)(1), the Assistant Administrator will project a date when the catch of Atlantic bluefin tuna will equal the available quota in any period, and will publish a notification in the FEDERAL REGISTER stating that

fishing for, retaining, possessing, or landing Atlantic bluefin tuna under the quota for that period is prohibited from a specified time on that date until the opening of the subsequent quota period, whereupon a quota equal to the initial quota for that period as adjusted for estimated overharvest or underharvest prior to that period will become available.

(3) When the coastwide General category fishery has been closed in any quota period under paragraph (a)(2) of this section, the Director may publish a notification in the FEDERAL REGISTER to make available up to 10 mt of the quota set aside for an area comprising the waters south and west of a straight line originating at a point on the southern shore of Long Island at 72°27' W. long. (Shinnecock Inlet) and running SSE 150° true, and north of 38°47' N. lat. The daily catch limit for the set-aside area will be one large medium or giant ABT per vessel per day. Upon the effective date of the set-aside fishery, fishing for, retaining, or landing large medium or giant ABT is authorized only within the set-aside area. Any portion of the set-aside amount not harvested prior to the reopening of the coastwide General category fishery in the subsequent quota period established under paragraph (a)(1) of this section may be carried over for the purpose of renewing the set-aside fishery at a later date.

(b) *Harpoon Boat*. The total annual amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed, or landed in the regulatory area by vessels permitted in the Harpoon Boat category under §285.21(b) is 53 mt.

(c) *Purse Seine*. The total amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed, or landed in the regulatory area by vessels permitted in the Purse Seine category under §285.21(b) is 250 mt.

(d) *Angling*. The total annual amount of Atlantic bluefin tuna that may be caught, retained, possessed, or landed in the regulatory area by anglers is 265 mt. No more than 6 mt of this quota may be large medium or giant bluefin tuna quota and no more than 108 mt of this quota may be school Atlantic

bluefin tuna. The size class subquotas for Atlantic bluefin tuna are further subdivided as follows:

(1) 51 mt of school, 71 mt of large school or small medium, and 4 mt of large medium or giant Atlantic bluefin tuna may be caught, retained, possessed, or landed south of 38°47' N. lat.

(2) 57 mt of school, 80 mt of large school or small medium, and 2 mt of large medium or giant Atlantic bluefin tuna may be caught, retained, possessed, or landed north of 38°47' N. lat.

(e) *Incidental*. The total annual amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed, or landed in the regulatory area by vessels permitted in the Incidental Catch category under §285.21(b) is 110 mt. This quota is further subdivided as follows:

(1) 109 mt for longline vessels. No more than 86 mt may be caught, retained, possessed, or landed in the area south of 34°00' N. lat.

(2) For vessels fishing under §285.23 (a) and (b), 1 mt may be caught, retained, possessed, or landed in the regulatory area.

(f) *Reserve*. The total amount of Atlantic bluefin tuna that will be held in reserve for inseason adjustments and fishery independent research is 33 mt. The Assistant Administrator may allocate any portion (from zero to 100 percent) of this amount to any category or categories of the fishery, including research activities authorized under §285.1(c). The Assistant Administrator will publish a notice of allocation of any inseason adjustment amount in the FEDERAL REGISTER before such allocation is to become effective. Before making any such allocation, the Assistant Administrator will consider the following factors:

(1) The usefulness of information obtained from catches of the particular category of the fishery for biological sampling and monitoring the status of the stock;

(2) The catches of the particular gear segment to date and the likelihood of closure of that segment of the fishery if no allocation is made;

(3) The projected ability of the particular gear segment to harvest the additional amount of Atlantic bluefin

tuna before the anticipated end of the fishing season; and

(4) The estimated amounts by which quotas established for other gear segments of the fishery might be exceeded.

(g) The catching or retention of school, large school or small medium Atlantic bluefin tuna is prohibited except as allowed by paragraph (d) of this section.

(h) If the Assistant Administrator determines, based on landing statistics and other available information, that an annual quota in any category, or as appropriate, subcategory, has been exceeded or has not been reached, the Assistant Administrator will subtract the overharvest from, or add the underharvest to, that quota category for the following year; provided that the total of the adjusted quotas and the reserve is consistent with a recommendation of the Commission regarding country quotas. The Assistant Administrator will publish any amounts to be subtracted or added and the basis for the quota reductions or increases in the FEDERAL REGISTER.

(i) *Transfers between categories.* The Assistant Administrator is authorized to make adjustments to quotas involving transfers between vessel categories or, as appropriate, subcategories if, during a single year quota period or the second year of a biannual quota period as defined by ICCAT, the Assistant Administrator determines, based on landing statistics, present year catch rates, effort, and other available information, that any category, or as appropriate, subcategory, is not likely to take its entire quota as previously allocated for that year. Given that determination, the Assistant Administrator may transfer inseason any portion of the quota of any fishing category to any other fishing category or to the reserve after considering the four factors indicated at paragraphs (f) (1) through (4) of this section, and the probability that any transfers between categories will not result in the total single-year quota or the total 2-year quota being exceeded. The Assistant Administrator shall file a notification of transfer of any inseason adjustment amount with the Office of the Federal Register be-

fore such transfer is to become effective.

[57 FR 32920, July 24, 1992, as amended at 58 FR 45291, Aug. 27, 1993; 59 FR 17725, Apr. 14, 1994; 60 FR 38512, July 27, 1995; 61 FR 30186, June 14, 1996; 62 FR 35109, June 30, 1997; 62 FR 38941, July 21, 1997; 63 FR 27865, May 21, 1998]

§ 285.23 Incidental catch.

(a) *Herring, mackerel, and menhaden purse seine gear and fixed gear other than longlines or traps.* Subject to the quotas in § 285.22, large medium and giant Atlantic bluefin tuna may be retained during any fishing trip, on board a vessel for which an Incidental Catch permit has been issued under § 285.21 that is fishing with herring, mackerel, and menhaden purse seine gear or fixed gear other than longlines or traps principally for species of fish other than tuna, provided that the total amount of Atlantic bluefin tuna taken does not exceed 2 percent, by weight, of all other fish on board the vessel at the end of each fishing trip.

(b) *Traps.* Subject to the quotas in § 285.22, large medium and giant Atlantic bluefin tuna may be retained during any fishing trip on board a vessel for which an Incidental Catch permit under § 285.21 has been issued that catches Atlantic bluefin tuna incidentally while fishing with traps, provided that the total amount of Atlantic bluefin tuna taken does not exceed 2 percent, by weight, of all other fish landed by the owner of the vessel within the preceding 30-day period.

(c) *Longlines.* Subject to the quotas in § 285.22, any person operating a vessel using longline gear possessing an Incidental Catch permit issued under § 285.21 may retain or land large medium and giant Atlantic bluefin tuna as an incidental catch. The amount of Atlantic bluefin tuna retained or landed may not exceed:

(1) One fish per vessel per fishing trip landed south of 34°00' N. latitude, provided that for the months of January through April at least 1,500 pounds (680 kg), and for the months of May through December at least 3,500 pounds (1,588 kg), either dressed or round weight, of species other than Atlantic bluefin tuna are legally caught, retained, and offloaded from the same